

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN HEGGERS,

Plaintiff,

07-CV-10594 (NRB)

-against-

ANSWER

LONG ISLAND RAILROAD COMPANY,

Defendant.

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S I R S :

Defendant, The Long Island Rail Road Company ("LIRR") sued herein as Long Island Railroad Company, by its attorney, MARK D. HOFFER, answering the complaint of plaintiff, alleges upon information and belief:

1. Admits those allegations contained in paragraphs "FIRST" of the Complaint.
2. Denies each and every allegation contained in paragraph "SECOND" of the Complaint, except to admit that the defendant is a public benefit corporation engaged in interstate commerce by rail and operate a railroad system and railroad yards within the jurisdiction of this Court and in various other States.
3. Denies each and every allegation contained in paragraph "THIRD" of the Complaint, except to admit that prior to October 13, 2005 and at all times hereinafter mentioned, the defendant employed the plaintiff as a carman in furtherance of defendant's business in interstate commerce.
4. Denies each and every allegation contained in paragraph "FOURTH" of the Complaint and refers all questions of law and fact to the Trial Court.
5. Denies each and every allegation contained in paragraphs "FIFTH," "SIXTH," and

"SEVENTH" of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

6. Upon information and belief, that if the plaintiff was injured as is alleged in the Complaint, he was injured in whole or in part by reason of his own negligence and without any fault or any negligence on the part of the defendant, its agents, servants and/or employees, and the defendant did not violate any statutes enacted for the safety of its employees.

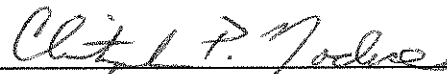
AS AND FOR A SECOND AFFIRMATIVE DEFENSE

7. Plaintiff has failed to mitigate or otherwise act to lessen or reduce the damages alleged in the Complaint.

WHEREFORE, defendant demands judgment dismissing the complaint herein together with costs and disbursements of this action.

Dated: Jamaica, New York
December 19, 2007

MARK D. HOFFER, ESQ.
Vice President/General Counsel & Secretary
Attorney for Defendant

By: 
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TO: **MICHAEL FLYNN, ESQ.**
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